An ACCOUNT

[illegible]

OF

Col. Richard Kirkby,
Capt. John Constable,
Capt. Cooper Wade,

AND

Capt. [illegible]

A Complaint exhibited by the Right Honourable [illegible] Majesty's Commissioners [illegible] Privy Council [illegible] and 11th Days of December, 1702.

FOR

Commanders, Neglect of Duty, Breach of Orders, and [illegible]

Committed by them to [illegible] which commenced the 29th of August, 1702. off of St. Mary's, in the Latitude of Ten Degrees North, near the Main-Land of [illegible] Between the Honourable John Constable Esq; and Richard Kirkby Esq; Two Private Ships of War.

For which Sir Kirkby and Capt. [illegible] were [illegible] Sheriffs [illegible]

Transmitted from Two Eminent Merchants at Port-Royal in Jamaica to a Person of Quality in the City of London.

LONDON:

Printed for J. Baker, and are to be Sold at his Shop under the Piazza's of the Royal Exchange in Cornhill. 1703.

An ACCOUNT of the

Barbarities and Cruelties

OF

Col. Richard Kirkby,
Capt. John Constable,
Capt. Cooper Wade,
} Capt. Samuel Vincent,
and
Capt. Christopher Fogg,

ON

A Complaint exhibited by the Judge-Advocate on behalf of Her Majesty, at a Court-Martial held on Board the Ship Medway in Port-Royal Harbour in Jamaica in America, the 8th, 9th, 10th, and 11th Days of October, 1702.

FOR

Commanding, Neglect of Duty, Breach of Orders,
and [illegible]

Committed by them in a Ha[illegible], commenced the 10th of August, 1702. off of St. Martha, in the Latitude of Ten Degrees North, near the Main-Land of America, Between the Honourable Vice Admiral Benbow Esq; and Admiral Da Casse with four French Ships of War.

For which, Col. Kirkby and Capt. Wade were Sentenced to be Shot to Death.

Transmitted from Two Eminent Merchants at Port-Royal in Jamaica, to a Person of Quality in the City of London.

LONDON:

Printed for [illegible] Gillibrand; and are to be Sold by A. Baldwin, near the Oxford-Arms in Warwick-Lane. 1702.

An ACCOUNT of the TRYALS OF

Colonel *Richard Kirkby*, Captain *John Constable*, Capt. *Cooper Wade*, Capt. *Samuel Vincent*, and Capt. *Christopher Fogg*.

AT a Court Martial held on Board Her Majesty's Ship the *Bredah*, in *Port-Royal* Harbour in *Jamaica* in *America*, the 8th, 9th, 10th, and 12th Days of *October*, 1702.

Present,

The Honourable *William Whiston*, Esq; Rear-Admiral of Her Majesty's Ships for the *West-India* Squadron, President.

Samuel Vincent,
John Hartnoll,
Christopher Fogg,
John Smith,
John Redman,
George Walton,
William Russell,
Barrow Harris,
Hercules Mitchell,
Philip Boyce,
Charles Smith.

Arnold Browne, Esq; Judge Advocate.

Who being all duly Sworn, pursuant to the Act of Parliament;

Proceeded to the Tryal of *John Arthur*, Gunner of the *Defiance*, on a Complaint exhibited by *Francis Knighton*, Third Lieutenant of the *Defiance*, and *George Foster*, Gunner of for hiding and concealing Forty three Barrels of Powder in the Wadd-Room, and covering them with Wadds and Coms; &c. when a Survey of Her Majesty's Stores of Ammunition after an Engagement was ordered; and denying to the Surveyors that there was any more Powder on Board, than was in the

Oct. 8.

Powder-Room and Gun-Room, *viz.* One Hundred; which upon a second Survey were discovered. It was proved also; That he had two Keys to the Powder-Room; and that having lost or mislaid his own, he without making any Application to the Commanding Officer then on Board, who kept the other Key, prevailed with *William Baker*, Carpenter of the said Ship, to break open the Door.

In mitigation of his Offence, he alledged, That examining into the Powder-Room, he found Three Barrels that had received Wet, which caused his removal of the Forty three Barrels; but had little to say for his concealing them from the Surveyors. Whereupon the Court adjudged, That the said Offence falling under the 33*d* Article of War, the said *John Arthur* should be carried from Ship to Ship in a Boat, with a Halter about his Neck, the Provost-Marshall declaring his Crimes; and all his Pay as Gunner to be mulct'd and forfeited to the Chest at *Chatham*, and be render'd incapable of serving Her Majesty in any other Employment.

Octob. 8,9. Colonel *Richard Kirkby*, Commander of the *Defiance*, was Tryed before the aforesaid Court, (except Captain *Samuel Vincent*, and Captain *Christopher Fogg*, who appeared as Witnesses for the Queen), on a Complaint exhibited by the Judge Advocate on the behalf of Her Majesty, of Cowardice, Neglect of Duty, Breach of Orders, and other Crimes committed by him at a Fight at Sea, commenced the 19*th* of *August*, 1702. off of St. *Martha*, in the Latitude of Ten Degrees North, near the Main Land of *America*, Between the Honourable *John Benbow*, Esq; Vice-Admiral of the Blue Squadron of Her Majesty's Fleet, and Admiral and Commander in Chief, &c. on Board Her Majesty's Ship *Bredah*, *Christopher Fogg*, Commander, and Six other of Her Majesty's Ships, *viz.* the *Defiance*, *Richard Kirkby* Commander; the *Falmouth*, *Samuel Vincent* Commander; *Windsor*, *John Constable* Commander; *Greenwich*, *Cooper Wade* Commander; *Ruby*, *George Walton* Commander; and the *Pendennis*, *Thomas Hudson* Commander; And Monsieur *Du Casse*, with Four *French* Ships of War: Which continued until the 24*th* of *August* inclusive.

The Witnesses that were Sworn in behalf of the Queen; *viz.*

The Honourable *John Benbow*, Esq; Admiral.
2 *Captains.*
8 *Lieutenants.*
5 *Masters.*
5 *Inferior Officers.*

21

Who Deposed, That the said Colonel *Richard Kirkby*, the Van in the Line of Battel, the 19*th* of *August*, about Three in the Afternoon, the Signal of Battel being out, the Admiral was forc'd to send his Boat on Board of *Kirkby*, and command his making more Sail, and get a breast of the

the Enemies Van, for that he was resolved to fight them: About Four the Fight began; but the said *Kirkby* did not fire above Three Broadsides, then luffed up out of the Line, and out of Gun-shot, leaving the Admiral engaged with Two *French* Ships till dark, and the said *Kirkby* receiving no Damage: That his Behaviour caused great fear of his Desertion, at Night the said *Kirkby* fell a stern, leaving the Admiral to pursue the Enemy.

That the 20*th* at Day-light the Admiral and *Ruby* were within Shot of all the Enemies Ships, but Col. *Kirkby* was near Three or Four Miles a-stern. The Admiral then made a new Line of Battel, and took the Van himself, and sent to each Ship, with a Command to the said *Kirkby* to keep his Line and Station, which he promised to do, but did not, keeping Two or Three Miles a-stern, tho the Signal for Battel was out all Night; the *French* making a Running Fight, the Admiral and *Ruby* plyed the Enemy with their Chase Guns till Night. That the 21*st* Day at Light, the Admiral was on the Quarter of the second Ship of the Enemies Rear, and the *Ruby* on the Board side, very near, who plyed him warmly, and met the same return, by which he was so much disabled, though the Admiral came in to his assistance, that he was forc'd to be Towed off; and this prevented the Admiral's design of cutting off the Enemies sternmost Ship. This Action lasted two Hours, during which time the said *Kirkby* lay a Broad-side of the sternmost Ship; as did also the *Windsor*, *John Constable* Commander. The Admiral then commanded the said *Kirkby* to ply his Broad-sides on him; but this having no effect, the second time he commanded the same, but he fired not one Gun; nay, his own Boatswain and Seamen repeated the Admiral's Command to him, but were severely us'd, and threatned that he would run his Sword through the Boatswain: And had the said *Kirkby* done his Duty, and Captain *Constable* his, they must have taken or destroyed the said *French* Ships. The Admiral, though he received much damage in his Sails, Rigging, Yards, *&c.* yet continued the Race all Night. That the 22*d* in the morning at Day-light, the *Greenwich* was Three Leagues a-stern, and the *Defiance*, Colonel *Kirkby*, with the rest of the Ships, three or four Miles, the *Falmouth* excepted, whose Station was in the Rear: That the said Captain *Samuel Vincent* seeing the Behaviour of the said *Kirkby* and the rest, came up with the Admiral, and sent his Lieutenant on Board, desiring leave to assist him, which was accepted: The said *Kirkby* never coming up, and by his Example the rest did the same, as if they had a design to sacrifice the Admiral and *Falmouth* to the Enemy, or desert. The Enemy were now about a Mile and a half a-head, standing in to the Shore with a small Breeze at W. fetched within *Sambey*, the Admiral firing at the sternmost till Night, and continued the pursuit; and a *Flemish* Ship that was in Monsieur *Du Casse*'s Company, on Board of which was all the *French* and *Spanish* new Governors and other Officers, made her escape. That the 23*d* in the Morning at Daylight, the Enemy bore [illegible] distant about four or five Miles, the Admiral and *Falmouth* pursuing; but the said Colonel *Kirkby* with the rest of the Ships being three or four Miles a-stern; (tho there was not a Ship, but before and after the Battel, sailed better than the Admiral:) About seven in the Evening,

Evening, it having been ſome time calm, a Gale of Wind ſprung up, the Admiral and *Falmouth* were about two Miles from the Enemy, and at eight the ſaid *Kirkby* and his ſeparate Squadron was fair up with the Admiral; and this day the Admiral ſent away the diſabled *Ruby*, *George Walton* Commander, to *Port-Royal*, and under his Convoy the *Anna* Galley, retaken from the *French*.

That the 24*th* in the morning about two of the Clock, the Admiral came up with the ſternmoſt of the Enemy within Call, and the *Falmouth* pretty near; but the ſaid Colonel *Kirkby* with the reſt the Ships, according to Cuſtom, were three or four Miles a-ſtern: The Admiral and *Falmouth* engaged the ſaid Ship, and at three the Admiral was wounded, his Right Leg being broke, but commanded the Fight to be vigorouſly maintained, and at Day-light the Enemies Ship appeared like a Wreck, her Mizon Maſt ſhot by the Board, her Main Yard in three or four pieces, her Foretopſail Yard the ſame, her Stays and Rigging all ſhot to pieces. Soon after day, the ſaid *Kirkby* with the reſt of the Ships being to windward of the ſaid diſabled Ship, he the ſaid *Kirkby* with the reſt of his ſeparate Squadron, fired about twelve Guns at the ſaid Ship; and fearing a ſmart return from her, he lower'd his Mizon Yard, his Topſails on the Caps, ſet his Spritſail, Spritſail Topſail, and Foretopſail Stayſail, and having waired his Ship, ſet his Sail, and run away before the Wind from the poor diſabled Ship, the reſt following his ſaid example; though they had but eight men kill'd on board them all (except the Admiral.) The other three *French* Men of War were at this time of Action about four Miles diſtant from their maimed Ship; whereupon the Enemy ſeeing the Cowardice of the ſaid Colonel *Kirkby* and the reſt of the *Engliſh* Ships, in a Squale bore down upon the Admiral, who lay cloſe by the diſabled Ship, and having got in their Spritſail Yard, gave him all their Fire, and running between him and the diſabled Ship, remann'd her, and took her in. The Admiral's Rigging being very much ſhatter'd, was oblig'd to lye and refit till Ten a Clock, and then continued the Purſuit, and the reſt of the Fleet following in the greateſt diſorder imaginable; the Admiral commanded Captain *Fogg* to ſtand a-breaſt of the Enemies Van, and then to attack him, and having then a fine ſteady Gale, the like not happening during the whole Engagement; and further ordered that he ſhould ſend to all the Captains to keep the Line of Battel, and behave themſelves like *Engliſhmen*; and this Meſſage was ſent by Captain *Wade*, then on board the *Bredah*. That the ſaid Colonel *Kirkby* on the receit of this Meſſage, and ſeeing the Admiral's Reſolution to engage, came on board him, who then lay wounded in a Cradle; and without common Reſpect of enquiring after his Health, he the ſaid *Kirkby* expreſſed theſe Words following; *viz. That he wonder'd that the Admiral ſhould offer to engage the* French *again, it being not neceſſary, ſafe, nor convenient, having had Six Days Trial of their Strength*; and then magnified that of the *French*, and leſſened that of the *Engliſh*. But the Admiral being ſurprized at his Speech, ſaid it was but one man's Opinion, and that he would have the reſt of the Captains; and accordingly ordered the Signal to be made for all the Captains to come on board; and at this time the Admiral and the reſt of the Ships were to windward, and within Shot

of

of the Enemy, and had the faireſt opportunity that in ſix days preſented to chaſe, engage, and deſtroy the Enemy.

That the ſaid Colonel *Kirkby* had endeavoured to poyſon the reſt of the Captains, forming a Writing under his own Hand, which was Cowardly and Erroneous: The Subſtance of which was, Not to Engage the Enemy any more; he the ſaid Colonel *Kirkby* brought it to the Admiral, who reproved him for it, ſaying it would be the ruin of all: Upon which he the ſaid Colonel *Kirkby* went away, but writ another in the following Words.

At a Conſultation held on Board Her Majeſty's Ship Bredah, *the* 24*th of* Auguſt, 1702. *off of* Carthagena, *on the Main Continent of* America.

It is the Opinion of Us whoſe Names are under-written,

1. Of the great Want of Men in Number, Quality, and the Weakneſs of thoſe they have.

2. The general Want of Ammunition of moſt ſorts.

3. Each Ship, Maſts, Yards, Sails and Rigging, being all in a great meaſure diſabled.

4. The Winds are ſo ſmall and variable, that the Ships can't be govern'd by any Strength; each Ship,

5. Having experienced the Enemy in Six Days Battel, following the Squadron conſiſting of Five Men of War and a Fire-ſhip, under the Command of Monſieur *Du Caſſe*; their Equipage conſiſting in Guns from 60 to 80, and having a great Number of Seamen and Soldiers on Board for the Service of *Spain*.

For which Reaſons above-mentioned, we think it not fit to engage the Enemy at this time, but to keep them Company this Night, and obſerve their Motion; and if a fair Opportunity ſhall happen of Wind and Weather, once more to try our Strength with them.

Richard Kirkby, Samuel Vincent, John Conſtable, Chriſtopher Fogg, Cooper Wade, and *Thomas Hudſon.*

That during the Six Days Engagement, he never encouraged his Men; but by his own Example of dodging behind the Mizon Maſt, and falling down upon the Deck on the noiſe of Shot, and denying them the Proviſions of the Ship, the ſaid Men were under great Diſcouragement. That he amended the Maſter of the Ship's Journal of the Tranſactions of the Fight, according to his own Inclination.

All which being proved aforeſaid:

The ſaid Colonel *Richard Kirkby* denied the whole, excepting the pretended written Conſultation: Which being ſhown to him, he own'd his own Hand and Name too. He brought ſeveral of his Men to give an account of his Behaviour during the Fight; but their Teſtimonies were inſignificant; and his Behaviour to the Court and Witneſſes moſt unbecoming a Gentleman. And being particularly ask'd by the Court, why he did not fire at the Enemies ſternmoſt Ship, which lay point-blank with him the 21ſt of *Auguſt*? He replied, Becauſe they did not fire at him, for that they had a Reſpect for him: Which Words upon ſeveral Occaſions, during the Trial, he repeated Three ſeveral times.

Whereupon due Conſideration of the Premiſes, of great advantages the *Engliſh* had in number, being Seven to Four, of Guns and more than the other; with his Acts and Behaviour as aforeſaid, and more particularly his ill-timed Paper or Conſultation as afore-recited, which obliged the Admiral for the Preſervation of Her Majeſty's Fleet, to give over the Chaſe and Fight, to the irreparable Diſhonour of the Queen, Her Crown and Dignity, and came to *Port-Royal, Jamaica*: For which Reaſons the Court was of Opinion, That he fell under the 11th, 12th, 14th, and 20th Articles of War; and adjudged accordingly, That he be ſhot to Death: But further decreed, That the Execution of Colonel *Kirkby* be deferred till Her Majeſty's Pleaſure be known therein; but be continued a cloſe Priſoner till that time.

Captain *John Conſtable*, Commander of the *Windſor*, was Tryed before the aforeſaid Court, on a Complaint exhibited by the Judge Advocate on the behalf of the Queen, for Breach of Orders, Neglect of Duty, and other ill Practices committed during a Fight commenced the 19th of *Auguſt*, 1702. as aforeſaid. (*Refer to Col.* [illegible] by's *Tryal.*)

The Witneſſes ſworn on the behalf of the Queen, were,

2 *Captains*,
2 *Lieutenants*,
3 *Maſters*,
2 *Other Officers*,
The Honourable John Benbow, *Eſq*; *Admiral*.

17 *Witneſſes*.

Who Depoſed, That the Captain *John Conſtable* never kept his firſt nor ſecond Line of Battel, but acted in all things as Colonel *Kirkby* had done. That the Admiral fired Two Guns to command him into the ſecond Line of Battel. That he did ſet more Sail in order to come into the Line and his Station; but upon Colonel *Kirkby*'s calling to him to keep his Line, he accordingly did. That the Admiral ſent his Lieutenant *Landgridge* to command him the ſaid *Conſtable* to keep his Line of Battel within half a Cables Length of the Ship before him, which was twice verbally delivered. And that he ſigned the Paper, *Conſultation*, as is in Col. *Kirkby*'s Tryal aforeſaid; tending to Hindrance and Diſſervice of Her Majeſty, *&c.* and was drunk during the Fight, *&c.*

All which being fully proved as aforeſaid; the ſaid Captain *John Conſtable*, denyed his Breach of Orders, or Neglect of Duty; but owned the ſigning the Paper, or Conſultation prepared by Colonel *Kirkby*, and did it at his Requeſt, and for that he had received damage in his Maſts and Rigging; and own'd no other Article to be true, but that he had ſigned to: He called ſeveral Witneſſes to his Behaviour during the Fight; who all declared he kept the Quarter-deck during the Engagement, and incourag'd his Men to fight; and that ſometimes he gave them Drams of Rum; and that Verbal Meſſage delivered by Lieutenant *Landgridge*, was delivered him in ſome heat and paſſion, and was underſtood to be, to keep the Line within half a Cable's length, and to follow *Kirkby*; which he did. That he ſo underſtood it himſelf, and ſeveral of his Men: He prayed the mercy of the Court, and ſo concluded, *&c.*

Whereupon due Conſideration of the Premiſes, the Court were of Opinion, that the ſaid *John Conſtable*, Captain, fell under the 12*th*, 14*th*, and 23*d* Articles of War; and adjudged the ſaid Captain *John Conſtable* to be immediately Coſhier'd, and render'd incapable of ſerving Her Majeſty, and be impriſoned during Her Majeſty's pleaſure, and ſent home to *England* a Priſoner in the firſt Ship the Admiral ſhall think fit, and be confined a Priſoner till then.

Captain

Octob. 10 *and* 12. Captain *Cooper Wade*, Commander of the *Greenwich*, was Tryed before the aforesaid Court; on a Complaint exhibited by the Judge Advocate, on the behalf of the Queen, of high Crimes and Misdemeanors, of Cowardice, Breach of Orders, and Neglect of Duty, and other ill Practices; committed during a Fight, commenc'd the 19*th* of *August*, 1702. as aforesaid. *Refer to that Part of Colonel* Kirkby's *Tryal.*

The Witnesses sworn on behalf of the Queen.

The Honourable *John Benbow*, Esq; Admiral,
9 *Lieutenants*,
Masters,
3 *Inferior Officers*.
16 *Witnesses*.

Who deposed; That during the Six days Engagement, he never kept the Line of Battel; fired all his Shot in vain, not reaching half way to the Enemy; That he was often told the same by his Lieutenants and other Officers, but notwithstanding he commanded them to fire, saying they must do so, or the Admiral would not believe they fought if they did not continue the Fire. That during the whole Fight the Admiral was engaged in, the said Captain *Wade* received but one Shot from the Enemy; That he was in Drink the greatest part of the Time of Action; And, that he sign'd the Paper or Consultation drawn up by Colonel *Kirkby*, as aforesaid; and in the time of Fight arraigned the Honourable Courage and Conduct of the Admiral.

All which being fully proved as aforesaid:

That the said Captain *Cooper Wade* denied the Arraignment of the honourable Courage and Conduct of the Admiral, during the whole Six Days Engagement, declaring the Bravery and good Management of the Admiral in this time of Action, and that no man living could do more or better, for the Honour of the Queen and Nation. He called some persons to justify his Behaviour, who said little in his favour. He begged the Mercy of the Court, and so concluded. Whereupon the Court was of Opinion, That the said *Cooper Wade* fell under the 11th, 12th, 14th, and 20th Articles of War; and accordingly adjudged the said *Cooper Wade* to be

Shot

Shot to Death: But it is farther declared by the Court, That the Execution of the ſaid Captain *Cooper Wade* be deferred till Her Majeſty's Pleaſure be known therein; but be continued a cloſe Priſoner till that time.

Captain *Samuel Vincent*, Commander of the *Falmouth*, and Captain *Chriſtopher Fogg*, Commander of the *Bredah*, were Tryed before the aforeſaid Court, on a Complaint exhibited by the Judge Advocate, for high Crimes and Miſdemeanors, and ill Practices in Time of Admiral *Benbow*'s Fight with Monſieur *Du Caſſe* as aforeſaid, in ſigning a Paper called a Conſultation and Opinion held on Board the *Bredah*, the 24th of *Auguſt*, 1702. (*Which is* Verbatim *recited in* Colonel Kirkby's *Tryal, to which I refer.*) It tending to the great Hindrance and Differvice of Her Majeſty's Fleet then in Fight: And the ſaid Paper ſo written, being ſhowed to each of them, they ſeverally owned their Hands to the ſame. But the ſaid Captain *Vincent* and Captain *Fogg*, for reaſon of ſigning the ſame, alledged, That being deſerted during each days Engagement by Colonel *Richard Kirkby* in the *Defiance*, Captain *John Conſtable* in the *Windſor*, Captain *Cooper Wade* in the *Greenwich*, and Captain *Thomas Hudſon* in the *Pendennis*, and left as a Prey to Monſieur *Du Caſſe*, they had great reaſon to believe they ſhould be Captives to the Enemy. And the Honourable *John Benbow* Eſq; Admiral, *&c.* coming into Court, declared that during the Six days Fight the ſaid Captain *Fogg* behaved himſelf with great Courage, Bravery, and Conduct, like a True [illegible]man, and Lover of his Queen and Countrey: And that the ſaid Captain *Samuel Vincent* Valiantly and Couragiouſly behaved himſelf during the ſaid Action, and deſired leave to come into his the ſaid Admiral's aſſiſtance; then engaged with the Enemy, and deſerted by all the reſt of the aboveſaid Ships, which he did to the Relief of the ſaid Admiral, who otherwiſe had fallen into the hands of Monſieur *Du Caſſe*. *Octob.* 12.

Whereupon the Court being of Opinion, That the ſigning of the aforeſaid Paper brought them under the Cenſure of the 20th Article of War, accordingly adjudged Captain *Samuel Vincent*, and Captain *Chriſtopher Fogg*, to be Suſpended: But the Execution thereof is hereby reſpited, till his Royal Highneſs Prince *George* of *Denmark*, Lord High Admiral of *England*, *&c.* his further Pleaſure be known therein.

Captain *Thomas Hudson*, Commander of the [illegible], died on Board his said Ship, in the Harbour of *Port-Royal*, in *Jamaica*, the

At Five a Clock the 14th Day of *October*, 1702, the President, &c. having finished all the Business before the Court, dissolved the same.

BRITISH MUSEUM 11 JU 74

ADVERTISEMENT.

THE Last Speech of King *William* to His Parliament, [illegible] *ber* the 31*st*, 1701. Curiously Engrav'd on a Copper Plate, and work'd off in a Sheet of Imperial Paper; with [illegible] phal Arch, and an Inscription Sacred to His Memory. To be Sold by *Sam. Crouch*, and [illegible] *John Taylor*, in St. *Paul's* Church-yard, Booksellers; [illegible] near the *Oxford Arms* in *Warwick-lane*.